

CHJBAm

FILED BY

cas

SEP 20 2005

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

AFTER HOURS DEPOSITORY
Thomas M. Gould, Clerk
U. S. District Court
W. D. OF TN, Memphis

CORY WILES, individually and on behalf
of himself and all persons similarly situated,

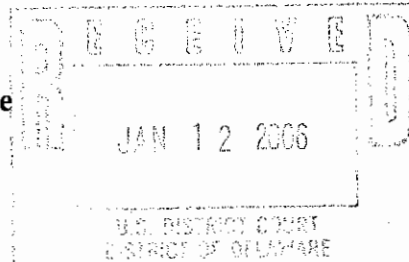
Plaintiff,

v.

No. 05-2605 B/An

INTEL CORPORATION, a Delaware
Corporation,

Defendant.



NOTICE OF FILING OF DECLARATION OF RICHARD RIPLEY IN SUPPORT OF
MOTION TO STAY AND TRANSFER PLAINTIFF'S MOTION TO REMAND

PLEASE TAKE NOTICE that Defendant Intel Corporation is filing the Declaration of Richard Ripley in support of its Motion to Stay and Transfer Plaintiff's Motion to Remand. A copy of the declaration is attached as Exhibit 1.

Dated September 20, 2005.

Respectfully submitted,

BURCH, PORTER & JOHNSON, PLLC

Jeff Feibelman / by Mary Hale
Jeff Feibelman (#7677)
Mary Hale (#21878)

130 North Court
Memphis, Tennessee 38103
Telephone: 901.524.5000
Facsimile: 901.524.5024

OF COUNSEL:

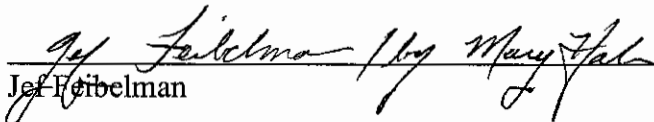
David M. Balabanian (CA# 37638)
Christopher B. Hockett (CA# 121539)
Joy K. Fuyuno (CA # 123890)
BINGHAM McCUTCHEN LLP
Three Embarcadero Center
San Francisco, CA 94111-4067
Telephone: 415.393.2000
Facsimile: 415.393.2286

Richard Ripley (DC# 412959)
BINGHAM McCUTCHEN LLP
1120 20th Street, NW, Suite 800
Washington, DC 20036
Telephone: 202.778.6150
Facsimile: 202.778.6155

Attorneys for Defendant Intel Corporation

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served via U.S. Mail, postage prepaid, B.J. Wade, Esq., Glassman, Edwards, Wade & Wyatt, P.C., 26 North Second Street, Memphis, Tennessee, 38103, on this 20th day of September 2005.


Jeff Feibelman

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

**CORY WILES, individually and on behalf
of himself and all persons similarly situated,**

Plaintiff,

v.

No. 05-2605 JDB

**INTEL CORPORATION, a Delaware
Corporation,**

Defendant.

DECLARATION OF RICHARD A. RIPLEY

1. My name is Richard A. Ripley. I am over the age of 18 and competent to give testimony. If called upon, I would testify on the facts set forth in this declaration.

2. I am a partner at the law firm of Bingham McCutchen LLP. Bingham McCutchen is counsel to defendant Intel Corporation in the above-styled action.

3. According to its web site, www.gartner.com, the Gartner Group is a provider of research and analysis about the global information technology industry. One type of data that Gartner tracks is annual worldwide shipments of Personal Computers ("PCs").

4. According to public news reports, Gartner provided the following data for worldwide PC shipments: 2002 – 148 million units; 2003 – 164 million units; 2004 – 187 million units. It also estimated shipments for 2005 at 202 million units. True and correct copies of these articles are attached hereto as Exhibits A and B.



5. According to these same articles, the units shipped in 2003 represent a growth of 11% over the shipments for 2002. See Exhibit A. Using that same growth rate for 2001-2002, one can estimate the 2001 worldwide PC shipments to be 133 million units.

6. Plaintiff Corey Wiles' ("Wiles") complaint allegedly covers PCs containing Intel microprocessors that were sold into the State of Tennessee from June 30, 2001 through to the present. (*See* Wiles First Amended Complaint ("FAC") ¶ 13).

7. Totaling six months of the 2001 estimate, 9 months of the 2005 estimate and the Gartner shipment data for 2002-2004 results in an estimated 716 million PC units shipped worldwide from June 29, 2001 to the present.

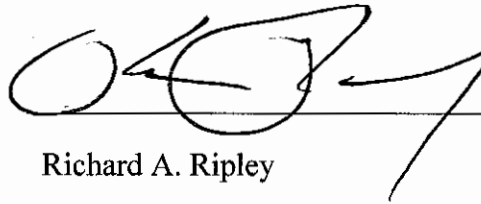
8. Wiles alleges that 32% of worldwide production of PCs are sold to United States consumers. (Wiles FAC ¶ 32). Using this allegation with the Gartner data results in an estimated 229,120,000 PCs sold to United States consumers during the specified time period.

9. Wiles also alleges that Intel had an average PC Unit Market Share from 2001-2004 of 81.9%. (*See* Wiles FAC ¶ 29). Using this allegation with the estimated U.S. PC shipments above results in approximately 187,649,000 PCs with Intel microprocessors shipped into the United States during the specified time period.

10. According to the U.S. Census, in 2001 61,473,000 Households in the United States had a computer; Tennessee Households account for 1.93% of those U.S. Households, or 1,189,000 Households. (A true and correct copy of this table from the U.S. Census Bureau's website is attached hereto as Exhibit C.) Applying this 2001 percentage (1.93%) to U.S. shipments of PCs with Intel microprocessors (187,649,000) results in an estimated 3,629,480 PCs sold into Tennessee during the specified time period.

11. If Wiles claims damages per computer of more than \$1.38, the aggregate value of those damage claims exceeds \$5 million based on the estimated data above.

Under the penalties of perjury, I declare that the foregoing is true and accurate to the best of my knowledge.

A handwritten signature in black ink, appearing to read 'Ripley', is written over a horizontal line. The signature is stylized with large loops and a long, sweeping tail.

Richard A. Ripley

Dated: September 19, 2005